



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: April 18, 2018
MAHS Docket No.: 18-002894
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on 4/17/18, from Lansing, Michigan. The Petitioner was not represented. The Department of Health and Human Services (Department) was represented by Mary Strand.

ISSUE

Did the Department properly calculate Petitioner's Food Assistance Program (FAP) budget?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner was a beneficiary of the FAP program.
2. On 2/13/18 Petitioner reported that she moved from her residence to [REDACTED] where she did not have any rent. Petitioner continued to pay rent at her prior residence to store her belongings.
3. The Department recalculated Petitioner's FAP eligibility deleting the shelter expense from Petitioner's FAP budget.
4. On 3/5/18 the Department issued notice to Petitioner that her FAP benefits will be reduced.

5. On 3/13/18 Petitioner filed a timely hearing request. The Department reinstated the action pending the outcome of the administrative hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, under BEM 554 and 556 the Department was required to remove the shelter expense from Petitioner's FAP budget for an "unoccupied home." BEM 554, p 24.

Here, Petitioner does not dispute the facts, or the calculation. Rather Petitioner argues that she still be entitled to deduct her shelter expense based on the storage of her personal belongings.

The Department argues that under BEM 554, if the home is not occupied, the shelter expense is not allowed.

Unrefuted evidence is that Petitioner's rental unit, where she was residing, was not occupied.

Based on the record established in this matter and the applicable law, Petitioner has not met her burden to establish that she is eligible for the shelter deduction and thus, the Department's action must be upheld. Evidence indicates that the Department acted in accordance with Department policy when it reduced Petitioner's FAP allotment.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

JS/nr



Janice Spodarek
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Renee Swiercz
51111 Woodward Ave 5th Floor
Pontiac, MI
48342

Oakland 4 County DHHS- via electronic
mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
MI